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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,130	01/12/2005	Jean-Benoit Pina	FR 020071	6802
22885 7590 01/16/2009 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721				
EXAMINER				
HICKS, CHARLES N				
ART UNIT		PAPER NUMBER		
2424				
MAIL DATE		DELIVERY MODE		
01/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,130

Applicant(s)

PINA, JEAN-BENOIT

Examiner

CHARLES N. HICKS

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/12/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (US 2005/0278737 A1), hereinafter referred to as Ma, in view of Markman (US

2003/0122966), hereinafter referred to as Markman, in view of Louie (US 2005/0055716 A1), hereinafter referred to as Louie.

5. Regarding claim 1, Ma discloses in a transmission system, a receiver for receiving programs from the transmission system, the receiver comprising electronic program guide means for browsing through an electronic program guide containing information on a plurality of program channels (**fig. 1-5, pg. 2, paragraphs 15-18**).

However Ma fails to disclose said electronic program guide means comprising a server module and at least two client modules. Markman discloses said electronic program guide means comprising a server module and at least two client modules, one assigned to a remote device and one assigned to another remote device, in order that upon request of one or more of the remote devices, the server module manages the navigation of the one or more of the assigned client module within the electronic program guide information (**fig. 3-6, pg. 3, paragraphs 43-45**). Motivation to combine the references is due to the fact that both deal with user selection or request of displayable information.

Ma and Markman fail to disclose wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices. Louie discloses wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices (**fig. 3-5, pg. 3-4, paragraph 27**). Motivation to combine the references is due to the fact that the references display program guides on a plurality of devices.

Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

6. Regarding claim 2, Ma discloses a remote device comprising input and output means for accessing an electronic program guide containing information on a plurality of program channels transmitted from a transmission system via a receiver, the receiver having electronic program guide means for browsing through said electronic program guide (**fig. 1, pg. 1, paragraphs 10-11**).

However Ma fails to disclose said electronic program guide means comprising a server module and at least two client modules. Markman discloses said electronic program guide means comprising a server module and at least two client modules, one assigned to said remote device and one assigned to another remote device, in order that upon request of one or more of the remote devices, the server module manages the navigation of the one or more of the assigned client modules within the electronic program guide information (**fig. 3-6, pg. 3, paragraphs 43-45**).

Ma and Markman fail to disclose wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices. Louie discloses wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices (**fig. 3-5, pg. 3-4, paragraph 27**). Motivation to combine the references is due to the fact that the references display program guides on a plurality of devices.

Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

7. Regarding claim 3, Ma discloses a remote device wherein said output means include display means for viewing the electronic program guide on said display means **(fig. 1-2, pg. 2, paragraph 13)**.

8. Regarding claim 4, Ma discloses a home entertainment system comprising a receiver for receiving programs from a transmission system, the receiver comprising electronic program guide means for browsing through an electronic program guide containing information on a plurality of program channels, and a plurality of remote devices comprising input and output means for accessing said electronic program guide **(fig. 1-5, pg. 2, paragraphs 15-18)**,

However Ma fails to disclose said electronic program guide means comprising a server module and a plurality of client modules assigned to the remote devices. Maruyama discloses said electronic program guide means comprising a server module and a plurality of client modules assigned to the remote devices, in order that upon request of one or more of any remote device, the server module manages the navigation of the one or more assigned client module within the electronic program guide information **(fig. 3-6, pg. 3, paragraphs 43-45)**.

Ma and Markman fail to disclose wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different

Art Unit: 2424

remote devices. Louie discloses wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices (**fig. 3-5, pg. 3-4, paragraph 27**). Motivation to combine the references is due to the fact that the references display program guides on a plurality of devices. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claim 5 and 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Markman, in view of Louie.

12. Regarding claim 5, Markman discloses in a transmission system, a method of remotely browsing through an electronic program guide containing information on a plurality of program channels transmitted from a transmission system via a receiver connected to at least two remote devices, the receiver having electronic program guide means for browsing through said electronic program guide (**fig. 1-6, pg. 3, paragraphs 41-42**),

said electronic program guide means comprising a server module and at least two client modules, one assigned to said remote device and one assigned to another remote device, the method comprising the step of managing the navigation of the one or more of the assigned client modules within the electronic program guide information upon request of one or more of the remote devices (**fig. 3-6, pg. 3, paragraphs 43-45**).

Markman fails to disclose wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices. Louie discloses wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices (**fig. 3-5, pg. 3-4, paragraph 27**). Motivation to combine the references is due to the fact that the references display program guides on a plurality of devices. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

13. Regarding claim 8, Markman discloses a program storage device readable by a receiver component of a transmission system, the program storage device tangibly embodying a program of instructions executable by the receiver to perform method steps for remotely browsing through an electronic program guide containing information on a plurality of program channels transmitted from the transmission system via the receiver, the receiver connected to at least two remote devices, said method steps comprising: providing a server module for interacting with at least two client modules, each client module assigned to a respective remote device (**fig. 1-6, pg. 3, paragraphs 41-42**);

and managing the navigation of the one or more of the assigned client modules within the electronic program guide information upon request of one or more of the remote devices (**fig. 3-6, pg. 3, paragraphs 43-45**).

Markman fails to disclose wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices. Louie discloses wherein the server module is capable of formatting the electronic program guide information for display on a plurality of different remote devices (**fig. 3-5, pg. 3-4, paragraph 27**). Motivation to combine the references is due to the fact that the references display program guides on a plurality of devices. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

Claim Rejections - 35 USC § 101

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program requires computer readable memory, as well as computer executable code in order to allow for functionality. The claimed language does not comply with acceptable language of the interim guidelines. Further it is difficult to determine what statutory class this invention falls into.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaizu (US 2004/0015989 A1) discloses an information processing system. Terakado (US Patent No. 6,311,329 B1) discloses an information providing apparatus and display controlling method.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES N. HICKS whose telephone number is (571)270-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2424

CNH